

REFERENCE TITLE: schools; pupil disciplinary proceedings

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2475

Introduced by  
Representative Adams

AN ACT

AMENDING SECTIONS 15-341 AND 15-843, ARIZONA REVISED STATUTES; RELATING TO  
SUSPENSION AND EXPULSION OF PUPILS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-341, Arizona Revised Statutes, is amended to  
3 read:

4 15-341. General powers and duties; immunity; delegation

5 A. The governing board shall:

6 1. Prescribe and enforce policies and procedures for the governance of  
7 the schools, not inconsistent with law or rules prescribed by the state board  
8 of education.

9 2. Maintain the schools established by it for the attendance of each  
10 pupil for a period of not less than one hundred seventy-five school days or  
11 two hundred school days, as applicable, or its equivalent as approved by the  
12 superintendent of public instruction for a school district operating on a  
13 year-round operation basis, to offer an educational program on the basis of a  
14 four day school week or to offer an alternative kindergarten program on the  
15 basis of a three day school week, in each school year, and if the funds of  
16 the district are sufficient, for a longer period, and as far as practicable  
17 with equal rights and privileges.

18 3. Exclude from schools all books, publications, papers or audiovisual  
19 materials of a sectarian, partisan or denominational character.

20 4. Manage and control the school property within its district.

21 5. Acquire school furniture, apparatus, equipment, library books and  
22 supplies for the use of the schools.

23 6. Prescribe the curricula and criteria for the promotion and  
24 graduation of pupils as provided in sections 15-701 and 15-701.01.

25 7. Furnish, repair and insure, at full insurable value, the school  
26 property of the district.

27 8. Construct school buildings on approval by a vote of the district  
28 electors.

29 9. Make in the name of the district conveyances of property belonging  
30 to the district and sold by the board.

31 10. Purchase school sites when authorized by a vote of the district at  
32 an election conducted as nearly as practicable in the same manner as the  
33 election provided in section 15-481 and held on a date prescribed in section  
34 15-491, subsection E, but such authorization shall not necessarily specify  
35 the site to be purchased and such authorization shall not be necessary to  
36 exchange unimproved property as provided in section 15-342, paragraph 23.

37 11. Construct, improve and furnish buildings used for school purposes  
38 when such buildings or premises are leased from the national park service.

39 12. Purchase school sites or construct, improve and furnish school  
40 buildings from the proceeds of the sale of school property only on approval  
41 by a vote of the district electors.

42 13. Hold pupils to strict account for disorderly conduct on school  
43 property.

44 14. Discipline students for disorderly conduct on the way to and from  
45 school.

1        15. Except as provided in section 15-1224, deposit all monies received  
2 by the district as gifts, grants and devises with the county treasurer who  
3 shall credit the deposits as designated in the uniform system of financial  
4 records. If not inconsistent with the terms of the gifts, grants and devises  
5 given, any balance remaining after expenditures for the intended purpose of  
6 the monies have been made shall be used for reduction of school district  
7 taxes for the budget year, except that in the case of accommodation schools  
8 the county treasurer shall carry the balance forward for use by the county  
9 school superintendent for accommodation schools for the budget year.

10       16. Provide that, if a parent or legal guardian chooses not to accept a  
11 decision of the teacher as provided in section 15-521, paragraph 3, the  
12 parent or legal guardian may request in writing that the governing board  
13 review the teacher's decision. Nothing in this paragraph shall be construed  
14 to release school districts from any liability relating to a child's  
15 promotion or retention.

16       17. Provide for adequate supervision over pupils in instructional and  
17 noninstructional activities by certificated or noncertificated personnel.

18       18. Use school monies received from the state and county school  
19 apportionment exclusively for payment of salaries of teachers and other  
20 employees and contingent expenses of the district.

21       19. Make an annual report to the county school superintendent on or  
22 before October 1 each year in the manner and form and on the blanks  
23 prescribed by the superintendent of public instruction or county school  
24 superintendent. The board shall also make reports directly to the county  
25 school superintendent or the superintendent of public instruction whenever  
26 required.

27       20. Deposit all monies received by school districts other than student  
28 activities monies or monies from auxiliary operations as provided in sections  
29 15-1125 and 15-1126 with the county treasurer to the credit of the school  
30 district except as provided in paragraph 21 of this subsection and sections  
31 15-1223 and 15-1224, and the board shall expend the monies as provided by law  
32 for other school funds.

33       21. Establish a bank account in which the board during a month may  
34 deposit miscellaneous monies received directly by the district. The board  
35 shall remit monies deposited in the bank account at least monthly to the  
36 county treasurer for deposit as provided in paragraph 20 of this subsection  
37 and in accordance with the uniform system of financial records.

38       22. Employ an attorney admitted to practice in this state whose  
39 principal practice is in the area of commercial real estate, or a real estate  
40 broker who is licensed by this state and who is employed by a reputable  
41 commercial real estate company, to negotiate a lease of five or more years  
42 for the school district if the governing board decides to enter into a lease  
43 of five or more years as lessor of school buildings or grounds as provided in  
44 section 15-342, paragraph 7 or 10. Any lease of five or more years  
45 negotiated pursuant to this paragraph shall provide that the lessee is

1 responsible for payment of property taxes pursuant to the requirements of  
2 section 42-11104.

3 23. Prescribe and enforce policies and procedures for disciplinary  
4 action against a teacher who engages in conduct that is a violation of the  
5 policies of the governing board but that is not cause for dismissal of the  
6 teacher or for revocation of the certificate of the teacher. Disciplinary  
7 action may include suspension without pay for a period of time not to exceed  
8 ten school days. Disciplinary action shall not include suspension with pay  
9 or suspension without pay for a period of time longer than ten school days.  
10 The procedures shall include notice, hearing and appeal provisions for  
11 violations that are cause for disciplinary action. The governing board may  
12 designate a person or persons to act on behalf of the board on these matters.

13 24. Prescribe and enforce policies and procedures for disciplinary  
14 action against an administrator who engages in conduct that is a violation of  
15 the policies of the governing board regarding duties of administrators but  
16 that is not cause for dismissal of the administrator or for revocation of the  
17 certificate of the administrator. Disciplinary action may include suspension  
18 without pay for a period of time not to exceed ten school days. Disciplinary  
19 action shall not include suspension with pay or suspension without pay for a  
20 period of time longer than ten school days. The procedures shall include  
21 notice, hearing and appeal provisions for violations that are cause for  
22 disciplinary action. The governing board may designate a person or persons  
23 to act on behalf of the board on these matters. For violations that are  
24 cause for dismissal, the provisions of notice, hearing and appeal in chapter  
25 5, article 3 of this title shall apply. The filing of a timely request for a  
26 hearing suspends the imposition of a suspension without pay or a dismissal  
27 pending completion of the hearing.

28 25. Notwithstanding section 13-3108, prescribe and enforce policies and  
29 procedures that prohibit a person from carrying or possessing a weapon on  
30 school grounds unless the person is a peace officer or has obtained specific  
31 authorization from the school administrator.

32 26. Prescribe and enforce policies and procedures relating to the  
33 health and safety of all pupils participating in district sponsored practice  
34 sessions, games or other interscholastic athletic activities, including the  
35 provision of water.

36 27. Prescribe and enforce policies and procedures regarding the smoking  
37 of tobacco within school buildings. The policies and procedures shall be  
38 adopted in consultation with school district personnel and members of the  
39 community and shall state whether smoking is prohibited in school buildings.  
40 If smoking in school buildings is not prohibited, the policies and procedures  
41 shall clearly state the conditions and circumstances under which smoking is  
42 permitted, those areas in a school building that may be designated as smoking  
43 areas and those areas in a school building that may not be designated as  
44 smoking areas.

1       28. Establish an assessment, data gathering and reporting system as  
2 prescribed in chapter 7, article 3 of this title.

3       29. Provide special education programs and related services pursuant to  
4 section 15-764, subsection A to all children with disabilities as defined in  
5 section 15-761.

6       30. Administer competency tests prescribed by the state board of  
7 education for the graduation of pupils from high school.

8       31. Secure insurance coverage for all construction projects for  
9 purposes of general liability, property damage and workers' compensation and  
10 secure performance and payment bonds for all construction projects.

11       32. Keep on file the resumes of all current and former employees who  
12 provide instruction to pupils at a school. Resumes shall include an  
13 individual's educational and teaching background and experience in a  
14 particular academic content subject area. A school district shall inform  
15 parents and guardians of the availability of the resume information and shall  
16 make the resume information available for inspection on request of parents  
17 and guardians of pupils enrolled at a school. Nothing in this paragraph  
18 shall be construed to require any school to release personally identifiable  
19 information in relation to any teacher or employee, including the teacher's  
20 or employee's address, salary, social security number or telephone number.

21       33. Report to local law enforcement agencies any suspected crime  
22 against a person or property that is a serious offense as defined in section  
23 13-604 or that involves a deadly weapon or dangerous instrument or serious  
24 physical injury and any conduct that poses a threat of death or serious  
25 physical injury to employees, students or anyone on the property of the  
26 school. This paragraph does not limit or preclude the reporting by a school  
27 district or an employee of a school district of suspected crimes other than  
28 those required to be reported by this paragraph. For the purposes of this  
29 paragraph, "dangerous instrument", "deadly weapon" and "serious physical  
30 injury" have the same ~~meaning~~ MEANINGS prescribed in section 13-105.

31       34. In conjunction with local law enforcement agencies and local  
32 medical facilities, develop an emergency response plan for each school in the  
33 school district in accordance with minimum standards developed jointly by the  
34 department of education and the division of emergency management within the  
35 department of emergency and military affairs.

36       35. Annually assign at least one school district employee to  
37 participate in a multihazard crisis training program developed or selected by  
38 the governing board.

39       36. Provide written notice to the parents or guardians of all students  
40 affected in the school district at least thirty days prior to a public  
41 meeting to discuss closing a school within the school district. The notice  
42 shall include the reasons for the proposed closure and the time and place of  
43 the meeting. The governing board shall fix a time for a public meeting on  
44 the proposed closure no less than thirty days before voting in a public  
45 meeting to close the school. The school district governing board shall give

1 notice of the time and place of the meeting. At the time and place  
2 designated in the notice, the school district governing board shall hear  
3 reasons for or against closing the school. The school district governing  
4 board is exempt from this paragraph if it is determined by the governing  
5 board that the school shall be closed because it poses a danger to the health  
6 or safety of the pupils or employees of the school.

7 37. Incorporate instruction on Native American history into appropriate  
8 existing curricula.

9 38. Prescribe and enforce policies and procedures allowing pupils who  
10 have been diagnosed with anaphylaxis by a health care provider licensed  
11 pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse  
12 practitioner licensed and certified pursuant to title 32, chapter 15 to carry  
13 and self-administer emergency medications including auto-injectable  
14 epinephrine while at school and at school sponsored activities. The pupil's  
15 name on the prescription label on the medication container or on the  
16 medication device and annual written documentation from the pupil's parent or  
17 guardian to the school that authorizes possession and self-administration is  
18 sufficient proof that the pupil is entitled to the possession and  
19 self-administration of the medication. The policies shall require a pupil  
20 who uses auto-injectable epinephrine while at school and at school sponsored  
21 activities to notify the nurse or the designated school staff person of the  
22 use of the medication as soon as practicable. A school district and its  
23 employees are immune from civil liability with respect to all decisions made  
24 and actions taken that are based on good faith implementation of the  
25 requirements of this paragraph, except in cases of wanton or wilful neglect.

26 39. Allow the possession and self-administration of prescription  
27 medication for breathing disorders in handheld inhaler devices, by pupils  
28 who have been prescribed that medication by a health care professional  
29 licensed pursuant to title 32. The pupil's name on the prescription label on  
30 the medication container or on the handheld inhaler device and annual written  
31 documentation from the pupil's parent or guardian to the school that  
32 authorizes possession and self-administration shall be sufficient proof that  
33 the pupil is entitled to the possession and self-administration of the  
34 medication. A school district and its employees are immune from civil  
35 liability with respect to all decisions made and actions taken that are based  
36 on a good faith implementation of the requirements of this paragraph.

37 40. Prescribe and enforce policies and procedures to prohibit pupils  
38 from harassing, intimidating and bullying other pupils on school grounds, on  
39 school property, on school buses, at school bus stops and at school sponsored  
40 events and activities that include the following components:

41 (a) A procedure for pupils to confidentially report to school  
42 officials incidents of harassment, intimidation or bullying.

43 (b) A procedure for parents and guardians of pupils to submit written  
44 reports to school officials of suspected incidents of harassment,  
45 intimidation or bullying.

1 (c) A requirement that school district employees report suspected  
2 incidents of harassment, intimidation or bullying to the appropriate school  
3 official.

4 (d) A formal process for the documentation of reported incidents of  
5 harassment, intimidation or bullying, ~~except that no documentation shall be~~  
6 ~~maintained unless the harassment, intimidation or bullying has been proven~~  
7 AND FOR THE CONFIDENTIALITY, MAINTENANCE AND DISPOSITION OF THE DOCUMENTATION  
8 PRESCRIBED IN THIS SUBDIVISION.

9 (e) A formal process for the investigation by the appropriate school  
10 officials of suspected incidents of harassment, intimidation or bullying.

11 (f) Disciplinary procedures for pupils who have admitted or been found  
12 to have committed incidents of harassment, intimidation or bullying.

13 (g) A procedure that sets forth consequences for submitting false  
14 reports of incidents of harassment, intimidation or bullying.

15 41. Prescribe and enforce policies and procedures regarding changing or  
16 adopting attendance boundaries that include the following components:

17 (a) A procedure for holding public meetings to discuss attendance  
18 boundary changes or adoptions that allows public comments.

19 (b) A procedure to notify the parents or guardians of the students  
20 affected.

21 (c) A procedure to notify the residents of the households affected by  
22 the attendance boundary changes.

23 (d) A process for placing public meeting notices and proposed maps on  
24 the school district's website for public review, if the school district  
25 maintains a website.

26 (e) A formal process for presenting the attendance boundaries of the  
27 affected area in public meetings that allows public comments.

28 (f) A formal process for notifying the residents and parents or  
29 guardians of the affected area as to the decision of the governing board on  
30 the school district's website, if the school district maintains a website.

31 (g) A formal process for updating attendance boundaries on the school  
32 district's website within ninety days of an adopted boundary change. The  
33 school district shall send a direct link to the school district's attendance  
34 boundaries website to the department of real estate.

35 (h) If the land that a school was built on was donated within the past  
36 five years, a formal process to notify the entity ~~who~~ THAT donated the land  
37 affected by the decision of the governing board.

38 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this  
39 section, the county school superintendent may construct, improve and furnish  
40 school buildings or purchase or sell school sites in the conduct of an  
41 accommodation school.

42 C. If any school district acquires real or personal property, whether  
43 by purchase, exchange, condemnation, gift or otherwise, the governing board  
44 shall pay to the county treasurer any taxes on the property that were unpaid  
45 as of the date of acquisition, including penalties and interest. The lien

1 for unpaid delinquent taxes, penalties and interest on property acquired by a  
2 school district:

3 1. Is not abated, extinguished, discharged or merged in the title to  
4 the property.

5 2. Is enforceable in the same manner as other delinquent tax liens.

6 D. The governing board may not locate a school on property that is  
7 less than one-fourth mile from agricultural land regulated pursuant to  
8 section 3-365, except that the owner of the agricultural land may agree to  
9 comply with the buffer zone requirements of section 3-365. If the owner  
10 agrees in writing to comply with the buffer zone requirements and records the  
11 agreement in the office of the county recorder as a restrictive covenant  
12 running with the title to the land, the school district may locate a school  
13 within the affected buffer zone. The agreement may include any stipulations  
14 regarding the school, including conditions for future expansion of the school  
15 and changes in the operational status of the school that will result in a  
16 breach of the agreement.

17 E. A school district, its governing board members, its school council  
18 members and its employees are immune from civil liability for the  
19 consequences of adoption and implementation of policies and procedures  
20 pursuant to subsection A of this section and section 15-342. This waiver  
21 does not apply if the school district, its governing board members, its  
22 school council members or its employees are guilty of gross negligence or  
23 intentional misconduct.

24 F. A governing board may delegate in writing to a superintendent,  
25 principal or head teacher the authority to prescribe procedures that are  
26 consistent with the governing board's policies.

27 G. Notwithstanding any other provision of this title, a school  
28 district governing board shall not take any action that would result in an  
29 immediate reduction or a reduction within three years of pupil square footage  
30 that would cause the school district to fall below the minimum adequate gross  
31 square footage requirements prescribed in section 15-2011, subsection C,  
32 unless the governing board notifies the school facilities board established  
33 by section 15-2001 of the proposed action and receives written approval from  
34 the school facilities board to take the action. A reduction includes an  
35 increase in administrative space that results in a reduction of pupil square  
36 footage or sale of school sites or buildings, or both. A reduction includes  
37 a reconfiguration of grades that results in a reduction of pupil square  
38 footage of any grade level. This subsection does not apply to temporary  
39 reconfiguration of grades to accommodate new school construction if the  
40 temporary reconfiguration does not exceed one year. The sale of equipment  
41 that results in an immediate reduction or a reduction within three years that  
42 falls below the equipment requirements prescribed in section 15-2011,  
43 subsection B is subject to commensurate withholding of school district  
44 capital outlay revenue limit monies pursuant to the direction of the school  
45 facilities board. Except as provided in section 15-342, paragraph 10,



proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

I. Until the state board of education and the auditor general adopt rules pursuant to section 15-213, subsection I, a school district may procure construction services, including services for new school construction pursuant to section 15-2041, by the construction-manager-at-risk, design-build and job-order-contracting methods of project delivery as provided in title 41, chapter 23, except that the rules adopted by the director of the department of administration do not apply to procurements pursuant to this subsection. Any procurement commenced pursuant to this subsection may be completed pursuant to this subsection.

Sec. 2. Section 15-843, Arizona Revised Statutes, is amended to read:

15-843. Pupil disciplinary proceedings

A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1, except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.

2. Procedures for the use of corporal punishment if allowed by the governing board.

3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.

4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.

5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.

6. Procedures and conditions for readmission of a pupil who has been expelled or suspended for more than ten days.

7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.

1           8. Procedures for appeal of the recommendation of the hearing officer  
2 or officers designated by the board as provided in subsection F of this  
3 section at the time the board considers the recommendation.

4           C. Penalties adopted pursuant to subsection B, paragraph 1 of this  
5 section for excessive absenteeism shall not be applied to pupils who have  
6 completed the course requirements and whose absence from school is due solely  
7 to illness, disease or accident as certified by a person who is licensed  
8 pursuant to title 32, chapter 7, 13, 15 or 17.

9           D. The governing board shall:

10          1. Support and assist teachers in the implementation and enforcement  
11 of the rules prescribed pursuant to subsection B of this section.

12          2. Develop procedures allowing teachers and principals to recommend  
13 the suspension or expulsion of pupils.

14          3. Develop procedures allowing teachers and principals to temporarily  
15 remove disruptive pupils from a class.

16          4. Delegate to the principal the authority to remove a disruptive  
17 pupil from the classroom.

18          E. If a pupil withdraws from school after receiving notice of possible  
19 action concerning discipline, expulsion or suspension, the governing board  
20 may continue with the action after the withdrawal and may record the results  
21 of such action in the pupil's permanent file.

22          F. In all action concerning the expulsion of a pupil, the governing  
23 board of a school district shall:

24          1. Be notified of the intended action.

25          2. EITHER:

26          (a) Decide, in executive session, whether to hold a hearing or to  
27 designate one or more hearing officers to hold a hearing to hear the  
28 evidence, prepare a record and bring a recommendation to the board for action  
29 and whether the hearing shall be held in executive session.

30          (b) ADOPT A POLICY OR DECIDE BY A VOTE AT ITS NEXT SCHEDULED MEETING  
31 THAT ALL HEARINGS CONCERNING THE EXPULSION OF A PUPIL PURSUANT TO THIS  
32 SECTION BE CONDUCTED BEFORE AN INDEPENDENT HEARING OFFICER WHO IS SELECTED  
33 FROM A LIST APPROVED BY THE GOVERNING BOARD.

34          3. Give written notice, at least five working days prior to the  
35 hearing by the governing board or the hearing officer or officers designated  
36 by the governing board, to all pupils subject to expulsion and their parents  
37 or guardians of the date, time and place of the hearing. If the governing  
38 board decides that the hearing is to be held in executive session, the  
39 written notice shall include a statement of the right of the parents or  
40 guardians or an emancipated pupil who is subject to expulsion to object to  
41 the governing board's decision to have the hearing held in executive  
42 session. Objections shall be made in writing to the governing board.

43          G. If a parent or guardian or an emancipated pupil who is subject to  
44 expulsion disagrees that the hearing should be held in executive session, it  
45 shall be held in an open meeting unless:

1           1. If only one pupil is subject to expulsion and disagreement exists  
2 between that pupil's parents or guardians, the governing board, after  
3 consultations with the pupil's parents or guardians or the emancipated pupil,  
4 shall decide in executive session whether the hearing will be in executive  
5 session.

6           2. If more than one pupil is subject to expulsion and disagreement  
7 exists between the parents or guardians of different pupils, ~~then~~ separate  
8 hearings shall be held subject to ~~the provisions of~~ this section.

9           H. This section does not prevent the pupil who is subject to expulsion  
10 or suspension, and the pupil's parents or guardians and legal counsel, from  
11 attending any executive session pertaining to the proposed disciplinary  
12 action, from having access to the minutes and testimony of the executive  
13 session or from recording the session at the parent's or guardian's expense.

14           I. In schools employing a superintendent or a principal, the authority  
15 to suspend a pupil from school is vested in the superintendent, principal or  
16 other school officials granted this power by the governing board of the  
17 school district.

18           J. In schools that do not have a superintendent or principal, a  
19 teacher may suspend a pupil from school.

20           K. In all cases of suspension, it shall be for good cause and shall be  
21 reported within five days to the governing board by the superintendent or the  
22 person imposing the suspension.

23           ~~L. A teacher who fails to comply with this section is guilty of~~  
24 ~~unprofessional conduct and the teacher's certificate may be revoked.~~

25           ~~M.~~ L. The principal of each school shall ~~insure~~ ENSURE that a copy of  
26 all rules pertaining to discipline, suspension and expulsion of pupils is  
27 distributed to the parents of each pupil at the time the pupil is enrolled in  
28 school.

29           ~~N.~~ M. The principal of each school shall ensure that all rules  
30 pertaining to the discipline, suspension and expulsion of pupils are  
31 communicated to students at the beginning of each school year, and to  
32 transfer students at the time of their enrollment in the school.